

# Abuse At Home, Abuse Abroad

## Tackling Trafficking in Women

Every year, tens of thousands of women and children are trafficked across Asia as sex slave. At home, many women are subjected to violence and other forms of abuse. Both require innovative solutions and legal actions

**C**HILDREN'S Charities say that one million children enter the global sex market every year and that in Asia alone more than 650,000 children under the age of 16 work as prostitutes. Trafficking — the selling of women and children for monetary profit, most often leading to bonded prostitution has come to be one of the most visible topics in South Asia. Social movements in the sub-continent are by now actively involved in working with this issue.

In South Asia all nations are members of the United Nations and as such are obliged to uphold the Universal Declaration of Human Rights (UDHR), article 4 of which states "no one shall be held in slavery and servitude; slavery and the slave trade shall be prohibited in all their forms". In addition, the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW), article 6 resolves that "state parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women".

Furthermore, the Convention on the Rights of the Child (CRC) also provides in its article 35 that "state parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale or traffic in children for any purpose or in any form". Trafficking was declared to be a regional problem in the recent SAARC summit in Male (May 12-14, 1997)...

Yet, here and now in 1998, in Bangladesh it is estimated that an average of 4,500 women and children are smuggled to Pakistan every year; and that an estimated 5,000-7,000 are trafficked from Nepal to India every year; and from Pakistan approximately 19,000 children have been sold into child labour such as jockeys in camel racing in UAE. Several cases of trafficking of babies and children for nefarious purposes through adoption and trafficking of young women as mail order brides to Japan are also documented in Sri Lanka.

There is evidence of increasing numbers of children being trafficked from Cambodia, Laos, Myanmar, Vietnam, and South China to work in Thailand's brothels and sweatshops. Conservative figures suggest that several hundred thousand women and children have been, or are at risk of being trafficked in the Mekong sub-region alone.

### Some Definitions

The United Nations General Assembly defines trafficking as "the illicit and clandestine movements of persons across national borders... with the end goal of forcing women and girl children into sexually or oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking such as forced domestic labour, false marriage, clandestine employment and false adoption".

Trafficking means taking an individual without consent (across national borders) for whatever purposes, but not always prostitution.

Prostitution, on the other hand, means selling sex for a consideration, mostly money. A woman or a man does not necessarily have to be either trafficked, or coerced into prostitution.

Moreover, one can be coerced into prostitution without being trafficked, or trafficked without being forced into prostitution. However, the fact remains that a large majority of the women and children trafficked all over the world end up in prostitution. Similarly, a large majority of the women and children engaged in prostitution all over the world were trafficked some time or the other. It is to this extent that prostitution and trafficking are so highly inter-linked. This position paper will deal with trafficking largely in its role of contributing to prostitution and consequent sexual exploitation of poor women and children world wide.

### Nature And Extent

Trafficking of women for sexual exploitation has a long history in Asia. During Second World War, poor Korean women served Japanese soldiers in China in what was called comfort homes. Philippines soon became the centre for trafficking in Asia, and when the state took strong measures to curb and regulate, the base shifted to Thailand, which is now both a receiver (from Cambodia, Vietnam and Myanmar) and giver (to Korea, Japan and Europe) of women for sexual exploitation.

With increase in globalization, liberalisation and privatisation, trans-national movement has become easier, income inequalities have increased, and the poorest are finding it all the more difficult to survive. These have resulted in increased trafficking in women for sexual exploitation. Extreme poverty is driving poor women from Vietnam and Cambodia to prostitution.

Trafficking in women is common in Nepal, Bangladesh and India. In India, trafficking takes place mostly within the country. Though poverty is the main reason, in some parts of India poverty combines with caste based exploitation to force women into prostitution under guise of religion. A significant part of the trafficked Nepali women are found in Indian brothels. In the countries of CIS, trafficking in women has been noted to have risen dramatically in the 90s. It is being used as a survival strategy by women who have lost their jobs, and face declining state support.

Given the proximity of these countries to the European Union member states, and easy availability of visa, it is becoming easier and less expensive for the traffickers to bring women from these countries to western Europe than from South and Southeast Asia.

**Bangladesh:** According to estimates by human rights activists, 200 to 400 young women and children are smuggled every month from Bangladesh into Pakistan. Most of them end up in prostitution. According to another report, there were 165,000 Bangladeshi women in prostitution in Pakistan in 1992. The figure is expected to have crossed 200,000 by now. In addition, a large number of Bangladeshi women are

engaged in the flesh trade in India — mostly in the brothels of Calcutta, Mumbai and Delhi. Usually, border areas of Khulna, Jessore, Satkhira, Rajshahi, Dinajpur, Rangpur, Mymensingh, Comilla, Brahmanbaria, and Sylhet are land routes of trafficking. Some of the features of trafficking in women and children from Bangladesh are

- \* there are network of traffickers and brokers, mostly Indians and Pakistanis, with links that extend from Bangladesh to Pakistan through India;

- \* traffickers recruit women and girls through their regional contact persons promising well paid jobs abroad;

- \* these women and children are handed over to clients in Calcutta, Mumbai, Hyderabad (Sind), and Karachi who sell them to interested individuals and groups running brothels, or slavery rings which are still reported to be flourishing in Pakistan;

- \* young women and children are sold as commodities at rates as high as US\$2,000; and
- \* there is evidence to suggest that women and children are brought into Bangladesh from Myanmar to be sent to other countries.

**India:** In addition to being the largest recipient of trafficked Nepali women, Indian brothels have large contingent of Bangladeshis also. The thriving sex trade of urban India attracts poor rural women from within the country too — in large numbers, and often forced into prostitution against their wishes. Some statistics released by the National Commission for Women in India in 1995-96 say that women from Andhra Pradesh, Karnataka, Tamil Nadu, West Bengal and Maharashtra comprise over 80% of all the women in prostitution in the six metropolitan cities of Calcutta, Mumbai, Delhi, Chennai, Hyderabad and Bangalore. Mumbai and Delhi have the largest number of women trafficked for Nepal, whereas Bangladeshis are found more in Calcutta, Mumbai and Delhi.

**Nepal:** Girl trafficking is one of the major forms of sexual exploitation in Nepal. Every year thousands of Nepali girls born in poverty and hardship are being trafficked to India and to other parts of the world for prostitution. An estimated 200,000 Nepali girls, 30% of whom are minors, work as prostitutes in India and other countries.

During the last fifty years, trafficking of Nepalese women and girls has increased rapidly. Earlier, young and pretty mountain girls were offered (read sold) to the Ranas (feudal chieftains) palaces where they served as maids, dancers, singers and concubines. Some palaces had thousand such girls — some even having become queens! In 1951, when the Rana rule was over and Nepal became a democracy, the young mountain girls, instead of the Ranas' palaces, started finding their way to brothels in India. With time, this has become a lucrative business for a large number of people, on both sides of the border, involved in this traffic.

Most of the young girls are deceived by pimps, abductors, and various other agents and intermediaries promising them well paid jobs in urban areas. Some are also tricked and sold by

their close and trusted relatives — even husbands, and parents. According to a report, in 1996, 124 minor girls working as prostitutes in Bombay were repatriated to Nepal. Among them there were four girls who were sold by their own husbands.

**Pakistan:** Next to drugs and arms smuggling, trafficking in women is said to be the biggest illegal trade in Pakistan. It goes on in parts of Karachi in Sind, in the North West Frontier Province quite openly, and more clandestinely elsewhere. After the liberation of Bangladesh in 1971, about 50,000 people, mostly poor, had migrated to Pakistan in search of livelihood. They later on formed a coterie of procurers and traffickers in women and children from Bangladesh — having links, on one hand, with rural Bangladesh — their homeland, and contacts in Pakistan on the other built up over years of domicile. In Karachi there is a steady supply of Bangladeshi and Burmese women. Between 100 to 150 of them are said to be brought in every day. The present total is estimated in the region of 200,000 of one and 30,000 of the other. Kidnapping children for smuggling to the Gulf states for employment as camel race jockeys peaked during 1997. Apart from the sea-route via Baluchistan, the busier traffic now went through Afghanistan and Iran. The activities of the Gulf reached such proportions that the Lahore High Court once asked the Federal Ministries of Interior and Foreign Affairs to take up the issue with the governments of UAE and other Gulf states.

**Japan:** It is today one of the biggest markets for sex where women from Thailand, Philippines, Russia, Ukraine and other Central Asian countries number 200,000. They are found to be working in clubs, karaoke bars, pornographic shops, massage and sauna establishments, sex telephone booths etc.

**Hongkong, Taiwan and Macau** are also noted for prostitution and trafficking. Fake contracts for domestic service facilitate trafficking in Hongkong where a large number of East European women are found in prostitution. There are almost 40,000 ethnic prostitutes in Taiwan — mostly from ethnic minority groups.

**Thailand** continues to be one of the biggest destinations for trafficked women and girls from neighbouring countries such as Cambodia, Laos and Myanmar.

From the brief country situations, three issues emerge:

- \* Some countries like Nepal, Bangladesh, Myanmar, Sri Lanka, Vietnam, Cambodia, Laos, Thailand, South China, Ukraine and other Central Asian countries are the sourcing grounds for traffickers;
- \* Some other countries like Japan, Hongkong, UAE and other Gulf countries are the recipient countries for trafficked persons; and
- \* Still some others like Thailand, Philippines, India and Pakistan are both sources as well as users of trafficked persons.

Written by **Abhijeet Das Gupta**. The writer works for ActionAid, India. ActionAid is a UK-based international NGO.

## Towards an Anti-Trafficking Strategy

### Outline of a preventive approach by ActionAid

EVERY year a large number of women, girl children, and minor boys are forcibly taken across borders of Bangladesh, India, Nepal, Pakistan, Vietnam and other South East Asian and Central Asian countries and a large majority of them end up in situations of various forms of sexual exploitation and bondage. In spite of most of the countries having relevant legislation to deal with the issue, involvement of more than one country renders enforcement and redress difficult. Sometimes, influential groups are involved, bending political will. Moreover, lack of travel documents and unfamiliarity with local languages make it additionally difficult for the trafficked persons to seek justice and repatriation. The process of repatriation, wherever it begins, run into additional problems of convoluted legal process, abysmal condition of temporary custody/shelter, and the social stigma attached with sex outside marriage/rape/abduction in the victims' communities. A large proportion of the trafficked persons are at the risk of being affected with the HIV.

The problem is further compounded by the lack of dependable, official data on cross-border trafficking in a majority of the affected countries.

**Stakeholder Analysis:** It is also necessary to look at the different stakeholders in the process. At the macro-level, the key players are the decision makers at different levels — law makers, and law enforcers. Influences are the pressure groups such as lawyers, women's movements (both fairly strong in Bangladesh and Nepal), academic and research institutions. At the micro-level, the decision makers are the families of the victims, and the community to which the family belongs. The influences could also be members of the family, the community and the formal or informal representatives of the people.

Allies are those who were trafficked, and those at risk; human rights activists and organisations; lawyers, media, and the civil societies. Traffickers, pimps and brothel owners in different receiving countries, promoters of international sex tourism, and a section of the media are likely to be the enemies.

### Target Groups

**For micro-level action:** Micro-level action will be encouraged for prevention of trafficking, on one hand, and for main streaming of the trafficked persons on the other. Vulnerable groups and communities, women and children under pressure specially in the acknowledged source countries such as Bangladesh, Nepal, Myanmar, Vietnam, Cambodia, Laos, South China, and erstwhile members of the Soviet Socialist Republic should be the targets for micro-level action. Special focus will be on illiterate and lowly educated poor rural women, girl children, and minor boys from women headed households, large landless families, and artisan families contending with outdated technologies and vanishing markets, susceptible to be trapped in the traffickers' nets, and therefore, at the risk of sexual exploitation in foreign lands. Children of prostitutes working in urban brothels will constitute the other area of focus — vulnerable because of their familiarity with the consequences, and fatalistic outlook borne out of repression, stigma and resultant isolation.

**For institution building:** Focus will be on organisations working in geographical areas prone to trafficking, along routes of trafficking, and those who can potentially collaborate on cross-border initiatives. Even among such organisations, priority will be for strengthening those which are presently working on resisting traffickers, sensitising administrators and law enforcers, socio-legal activism, and/or women's empowerment; and share the major concerns of ACTIONAID. Other targets for institution building will be academic and research institutions which identify themselves with women's movements. Equally important is building and strengthening institutions for temporary custody/shelter of trafficked persons, and for the rehabilitation of those suffering from the irreversible consequences of trafficking — such as destitution, AIDS, and mental disability.

**For developing human resources:** One of the major causes for vulnerability is lack of capacity. Therefore, the major thrust of human resource development will be with respect to the potential victims of trafficking and sexual exploitation. The capacities to be built at this level are livelihood skills, organising skills, and ability to identify and resist traffickers. At the second level, it is important to build the capacities of the communities, and the grassroots organisations resisting trafficking by making them aware of laws concerning trafficking, redress available, the possible allies — locally, nationally and internationally. At the third level, other allies like lawyers, media persons and the police need to be sensitised regarding the process of marginalisation of young rural women and children, the *modus operandi* of the traffickers, and the consequences of trafficking.

**For influencing change agents:** ACTIONAID's likely allies in influencing policy and enforcement will be local self governments in the source countries, civil societies in the receiving countries, the judiciary and the police in both source and receiving countries.

### Possible interventions

- \* Understanding the nature of trafficking in Central Asia, South Asia, Southeast Asia, and East Asia — the vulnerable groups, the routes, the identity of the traffickers and their allies, and the mechanisms used for recruiting, transporting, and linking victims with organised crime

- \* Identifying pockets from which women and children are trafficked, their social and economic situations, the border crossing points, and destinations

- \* Strengthening vigilance in source pockets, border-crossing points, and creating alternative for potential victims (increasing their worth in the eyes of the family and the community) in collaboration with grassroots organisations across the border

- \* Providing basic services to the victims at destination — mainly solidarity, health care, legal support, and interpreter support

- \* Running short-term/custodial shelter for rescued women and children in foreign countries pending repatriation

- \* Designing and implementing rehabilitation programmes for rescued and repatriated women and children who are destitutes, mentally disabled, and afflicted by AIDS as a consequence of trafficking

- \* Building resource centres, creating, maintaining and updating database, at least one each in all the Asian countries, on trafficking and using such data for both promoting micro-level action and influencing change agents

- \* Promoting/supporting specialised institutions, at least one in each country, to study, understand, deal with and build capacities of grassroots activists, policy makers, law enforcers and communities for tackling the complex issues affecting, and arising out of trafficking

- \* Sensitising the civil societies, mainly in the destination countries, to feel the plight of helpless people trapped in foreign countries in extremely coercive and unfamiliar environment, and raise their voices against sexually oppressing such totally defenceless people

- \* Creating a mechanism at the Asia Regional level to facilitate exchange of information between source countries and destination countries, and coordinating cross border initiatives by linking partner organisations from oth the countries.

— By **Dianne Hubbard and Diana Wise**

## Legal Action to Curb Domestic Violence

**T**HERE is an urgent need for more practical legal solutions for people who are facing the threat of domestic violence. The following are some of the key proposals contained in the paper prepared for the Law Reform and Development Commission by the Legal Assistance Centre.

The proposed law would adopt a broad definition of domestic violence which would include physical abuse, sexual abuse, economic abuse, intimidation, harassment and serious emotional, verbal or psychological abuse in domestic relationships. Each of these types of domestic violence would be defined so that the statute gives a clear idea of what behaviour is prohibited.

A person would be considered to be in a domestic relationship with another person:

- if they have a child together

- if they are members of the same family (parent and child, brother and sister, uncle and niece or aunt and nephew, and so forth)

- if they have an intimate relationship, such as boyfriend-girlfriend

- if they ordinarily share the same household or residence.

It is proposed that domestic workers in private households should be covered by the definition of "domestic relationship" since their vulnerability is similar to that of the other relationships which are covered. The definition of domestic relationship should also cover same-sex relationships.

**Criminal Offence**

Domestic violence is dealt with at present under broad general crimes such as assault or indecent assault. Providing a new criminal offence of "domestic violence" would send out a strong message that such vio-

lence will not be tolerated. Such offences have been enacted in Australia, Puerto Rico, Sweden and in many states in the United States.

There should be a specific criminal offence aimed at domestic violence. In addition to raising public awareness, this would also make it easier for the law to take into account the special complexities of crimes which occur within domestic relationships.

Any interested party should be able to lay a charge of domestic violence, thus taking some of the pressure off the victim, who may be afraid to go to the police.

Arrest of the perpetrator should be mandatory in certain cases — where there are signs of injury, where a weapon was used, where a child is involved, where a protection order forbidding violence was in place or where there is a documented history of domestic violence. In other less serious cases, the police would have the option of warning or removing the perpetrator for a brief cooling-off period, depending on the wishes of the victim.

The police should have enhanced powers of entry, search and seizure in cases where there is a reasonable suspicion of domestic violence, to empower them to protect victims who might be in danger.

In case where the accused is a first offender and there is no serious injury, the accused should be eligible for a diversion programme. This means that, instead of proceeding to trial, the accused could agree to participate in community service, or in an appropriate treatment or counselling programme. The availability of this option would depend on the circumstances of the case, taking the victim's wishes into ac-

count. The goal is to emphasise rehabilitation in appropriate cases, in light of the fact that some victims want help for the perpetrator rather than punishment.

Bail proceedings should be re-structured to ensure that the victim is not endangered by the release of an accused on bail. The prosecutor should be responsible for ensuring the information from the victim is available to the court before a decision on bail is made. Any accused released on bail should be forbidden to have any contact with the victim and forbidden to be in possession of a firearm.

Criminal cases involving domestic violence should be given priority on court schedules and heard in closed court.

A Victim's Advocate Programme staffed primarily by trained volunteers should be set up under the Office of the Prosecutor-General to provide

information and support for victims throughout the legal process. This would help to keep victims from losing courage as the case progresses. It would also reduce some of the trauma associated with court appearances.

Victims of domestic violence should have the right to give input to the court on the question of sentencing. Sentences could be postponed in appropriate cases on condition of submission to appropriate treatment or the performance of community service. The idea is not to be "soft" on domestic violence, but to provide enough flexibility to take the family's needs and wishes into account.

Compensation to the victim for damages or loss from the domestic violence should be incorporated into the criminal trial.

Certain professionals who regularly come into contact with children should have a le-

gal duty to report suspicions of domestic violence against a child.

**Protection Orders**

Protection orders are one of the most common components of domestic violence legislation around the world. These are court orders which prohibit the perpetrator from engaging in further threats or violence, often placing restrictions on contact with the victim.

A person in a domestic relationship who is experiencing violence or threats of violence should be able to apply to any magistrate's court for a protection order. Making such an application would be a simple procedure which would not require a lawyer.

Every protection order should prohibit the perpetrator from being in possession of a firearm or any other specified weapon. Every protection order should also direct the police to provide special protection as necessary to secure the safety of the applicant.

The court should be able to make orders in appropriate cases forbidding physical contact with the victim, or forbidding all communication with the victim, and with any children involved.

The court should be able to order the perpetrator to leave a residence which he or she shares with the victim. The idea here is that the victim should not be the one who must suffer the inconvenience of having to find a safe place to live. The violent person should rather be the one who is forced to leave the home.

The court should be able to order the perpetrator not to sell, remove or damage shared property or property belonging to the victim.

The court should be able to make temporary orders concerning maintenance as well as temporary orders concerning

custody and access to children involved in the domestic relationship.

Violation of a protection order should be a criminal offence.

As in the case of urgent applications to the High Court under existing law, it should be possible to obtain an interim protection order in the perpetrator's absence. The perpetrator would be given an opportunity to state his or her side of the case before the order was made final.

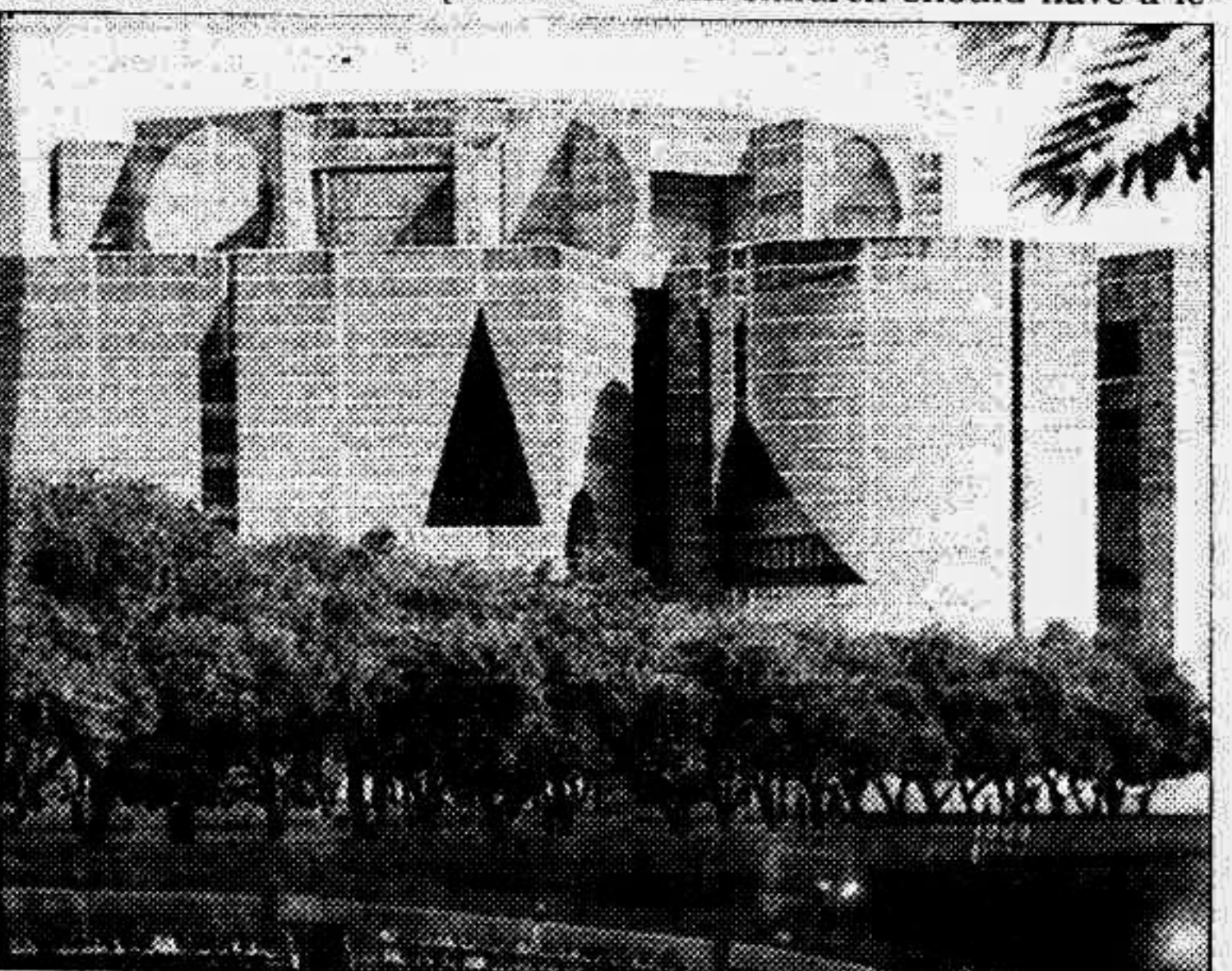
**Police Duties**

The proposed statute would give the police a specific duty to respond to all domestic violence cases. It would also include a statement explaining the victim's legal options which police would read to every victim in his or her home language. Where necessary, police would be expected to escort the victim to the home to collect personal belongings and to provide transport to a hospital or clinic, shelter or other safe place. Police would also be expected to refer the victim to a counselling service if need be.

The proposed law would include a general "community caretaking" power giving police the right to enter any premises for the purpose of preventing harm to a person or to property, giving aid to an injured or sick person, attempting to locate a missing person or offering transport to a safe place.

The proposed law would allow evidence on the psychological effect of domestic violence in cases where the victim fights back. This would make it possible for the court to make an informed assessment of the applicability of existing criminal defence such as self-defence or provocation in such cases.

By **Dianne Hubbard and Diana Wise**



Something for the law-makers to ponder